



ASSOCIATION OF MISSOURI CLEANWATER AGENCIES

September 19, 2016

By email: leasue.meyers@dnr.mo.gov

Ms. Leasue Meyers, EI
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

RE: Proposed Supplemental Treatment Rulemaking (10 CSR 20-8.210)

Dear Ms. Meyers:

I am writing on behalf of the Association of Missouri Cleanwater Agencies ("AMCA") to provide comments on the proposed Supplemental Treatment rulemaking ("Proposed Rulemaking"). AMCA is a statewide association comprising owners and operators of public water, sewer, and stormwater utilities. Our members strive every day to provide affordable and cost-effective services protective of public health and the environment.

While the rulemaking is in its early stages it is critical that DNR clarify that the proposed supplemental treatment rule will not trump the professional judgment of licensed engineers in Missouri. AMCA supports establishing general, non-binding design guidelines for licensed engineers. However, we oppose the State's adoption of binding rules that would interfere with our engineers' exercise of their best professional judgment in the determination of supplemental treatment options and designs for our members' facilities.

Thus, while the detail provided in any final guidelines may be appropriate for some systems, it should not restrict locality engineers from departing from the guidelines to best meet a locality's specific needs.

Toward this end, AMCA urges the Department to include two important qualifiers in the proposed rule.

First, introductory language should be incorporated to make it clear that these guidelines are not the presumptive standard of engineering care:

The design guidelines set forth in this chapter specify general criteria and minimum standards for the design and construction of sewerage systems and treatment works and are not intended to be used as a substitute for engineering experience and judgement used in accordance with standards of practice.¹

Second, AMCA supports a safe harbor approach wherein the Department will streamline its review of projects which conform to any final design guidelines, while allowing departures when appropriate in the exercise of professional engineering judgment. Accordingly, the guidelines should include the following provision:

Substantial Compliance. Submissions that are in substantial compliance with this chapter will be approved. Justification for a design may be required for those portions of the submitted design which differ from these criteria. The design engineer shall identify and justify noncompliance with specific design standards or "shall" criteria that the department identifies, or that the design engineer in his judgment, believes to be substantial in nature. The department may request changes in designs that are not in substantial compliance with this chapter or that are not adequately justified by the engineer/owner.²

¹ Found in Virginia's Design Guidelines, 9 VAC 25-790-240(A).

² Id. at -240(C).

Thank you for considering AMCA's preliminary comments. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, reading "F. Paul Calamita".

F. Paul Calamita
General Counsel

C: AMCA Members